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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/510,310  | 10/06/2004  | Ralph Hubert Peters    | NL 020329           | 7470             |
| 24737 7590 03/17/2009<br>PHILIPS INTELLECTUAL PROPERTY & STANDARDS<br>P.O. BOX 3001<br>BRIARCLIFF MANOR, NY 10510 |             |                        |                     |                  |
| EXAMINER<br>CARTER, WILLIAM JOSEPH  |             |                        |                     |                  |
| ART UNIT<br>2875  |             | PAPER NUMBER           |                     |                  |
| MAIL DATE<br>03/17/2009   |             | DELIVERY MODE<br>PAPER |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RALPH HUBERT PETERS

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Application No. 10/510,310  
Technology Center 2800

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Mailed: March 17, 2009

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Before PAMELA S. BENNETT, *Review Team Paralegal*.  
BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A Reply Brief was filed on November 14, 2007, in response to the Examiner's Answer mailed September 21, 2007.

Title 37, Code of Federal Regulations, §41.43 (2007) states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

Because of the text following from paragraph 12.181,<sup>1</sup> the Communication mailed January 15, 2009, was an improper acknowledgment of the Reply Brief, because it constitutes a Supplemental Examiner's Answer as per § 1208, part II, of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007). A Supplemental Examiner's Answer requires a Director or designee's approval.<sup>2</sup>

**CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to vacate the Communication mailed January 15, 2009;

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<sup>1</sup> The reply brief filed [insert the date on which the reply brief was filed] has been entered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

<sup>2</sup> In Technology Center (TC) 2800, only the Director, QAS or Georgia Epps may approve a Supplemental Examiner's Answer.

2) to generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated November 14, 2007 in accordance with MPEP § 1208, part II.; OR

b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;

and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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